

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNIVERSAL UNDERWRITERS
INSURANCE COMPANY as subrogee
of King Chrysler Jeep Dodge, LLC,

CIVIL ACTION

Plaintiff,

Doc. NO. 2:11-cv-01153-NBF

v.

DEDICATED LOGISTICS, INC.,
Defendant/Cross Claimant/Cross
Counterclaim Defendant, and
PENNSYLVANIA POWER COMPANY,
Defendant/Cross Claimant/Cross
Defendant/Counterclaimant,

**DEFENDANT DEDICATED LOGISTICS, INC.’S DAUBERT MOTION TO EXCLUDE
THE OPINION TESTIMONY OF PENNSYLVANIA POWER’S EXPERTS, TRANS-CON
CSI AND R.A. SIMPSON CONSULTING PURSUANT TO FEDERAL RULES OF
EVIDENCE 104 AND 702, *et seq.***

Defendant/Cross Claimant/Cross Defendant/Counterclaimant, Dedicated Logistics, Inc., (“Dedicated”) through its attorneys, Pion Nerone Girman Winslow & Smith, P.C. and pursuant to Rules of Evidence 104 and 702 *et seq.*, respectfully submit that the opinions of Penn Power’s experts upon which Penn Power relies to assert their theory that the tractor struck the guy wire attached to the subject pole which caused the service wire to lower at which time it was snagged by the trailer are without the requisite methodology and thus should be excluded at trial.

In support of this requested relief, Dedicated incorporates herein the Brief accompanying this Motion and appends hereto the following:

Exhibit A- Deposition Testimony of William A. Glenn, Jr.

Exhibit B- Affidavit of Ashley L. Dunn

- Exhibit C- Supplemental SEA Report
- Exhibit D- Rule 26 Expert Disclosures of TransCon
- Exhibit E- Deposition Testimony of Glen F. Reuschling
- Exhibit F- Deposition Testimony of Al Dunn, Ph.D., P.E.
- Exhibit G- Robert A. Simpson Report
- Exhibit H- Deposition Testimony of Robert A. Simpson

WHEREFORE, Dedicated respectfully requests that this Honorable Court enter an Order granting the within Motion to Exclude.

Respectfully submitted,

PION, NERONE, GIRMAN, WINSLOW
& SMITH, P.C.

By: /s/ Timothy A. Montgomery
Timothy A. Montgomery, Esquire
Pa. I.D. No. 94179

1500 One Gateway Center
Pittsburgh, PA 15222
(412) 281-2288 (telephone)
(412) 281-3388 (facsimile)
tmontgomery@pionjohnston.com

Attorneys for DEDICATED LOGISTICS, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Defendant Dedicated Logistics, Inc.'s Daubert Motion to Exclude The Opinion Testimony of Pennsylvania Power's Experts, Transcon CSI and R.A. Simpson Consulting Pursuant to Federal Rules of Evidence 104 and 702, *et seq.*, was served on counsel of record electronically through the ECF filing system on this 11th day of August, 2014 as follows:

Ron L. Pingitore, Esquire
White and Williams, LLP
1650 Market Street, Suite 1800
Philadelphia, PA 19103
(Counsel for Plaintiff)
pingitorer@whiteandwilliams.com

Edward A. Yurcon, Esquire
Anstandig, McDyer & Yurcon, P.C.
1300 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
(Counsel for Pennsylvania Power Company)
edyurcon@ambylaw.com

John T. Dellick, Esquire
Harrington, Hoppe & Mitchell, Ltd.
26 Market Street, Suite 1200
P.O. Box 6077
Youngstown, OH 44501
(Co-Counsel for Pennsylvania Power Company)
jdellick@hhmlaw.com

PION, NERONE, GIRMAN, WINSLOW
& SMITH, P.C.

By Timothy A. Montgomery
Timothy A. Montgomery, Esquire
Pa. I.D. No. 94179

1500 One Gateway Center
Pittsburgh, PA 15222
(412) 281-2288 (telephone)
(412) 281-3388 (facsimile)
tmontgomery@pionjohnston.com

Attorneys for DEDICATED LOGISTICS, INC.